

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 802 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

K B SANGHVI

Versus

JAY OCTROI COMPANY

Appearance:

1. Civil Revision Application No. 802 of 1997
MS SEJAL K MANDAVIA for Petitioner No. 1
MR ANSHIN H DESAI for Respondent No. 1
MR NV ANJARIA for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 03/03/2004

ORAL JUDGEMENT

The petitioner herein is an advocate of the defendants in Regular Civil Suit No.171 of 1997 which was filed by the respondents herein in the court of the learned Civil Judge (J.D.), Junagadh. In the said suit

the learned trial Judge has passed an order below exh.22 by which the learned trial Judge has ordered for returning certain documents. The said documents are in the nature of certain reported judgements of this Court, as pointed out by learned advocate Ms Mandavia. The impugned order is challenged mainly on the ground that while passing the said order the learned Judge has made certain observations against the concerned advocate. The learned trial Judge has observed in his order that the documents in question, which are judgements, are not required to be produced by way of documentary evidence and that the concerned advocate has refused to accept said documents back. The trial Judge has also observed that such application will result into unfair procedure and that it should not be followed in future. Since this Court is not concerned about the merits of the order, the only point which is required to be considered is whether the trial Court is justified in making such remarks against the concerned advocate. In my view, the learned Judge should not have made such observations asking the advocate not to follow certain procedure, which, according to him, is unfair practice, in future cases. Equally, it was not proper on the part of the learned Judge to observe that the learned advocate has refused to accept back the documents. The Court should have passed the order on merits without observing anything about the concerned advocate. Under these circumstances, the following observations made by the learned Judge against the concerned advocate, namely, "he has refused to take back documents and directions not to follow unhealthy practice in future" are ordered to be deleted from the order. The order in question is not to be treated as a precedent in any other suits and is to be confined to the facts of this case.

This revision application is disposed of accordingly subject to the aforesaid observations. Rule is made absolute accordingly. No costs.

(P.B. Majmudar, J.)

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